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S E C R E T SECTION 01 OF 03 BAGHDAD 003063

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TAGS: [MOPS](#) [PGOV](#) [PHUM](#) [PTER](#) [IZ](#)
SUBJECT: SEPTEMBER 9 MCNS MEETING -- MALIKI URGES COALITION
RESTRAINT TO PREVENT CIVILIAN CASUALTIES IN OPERATIONS

REF: BAGHDAD 2832

Classified By: Charge d'Affaires, a.i. Patricia A. Butenis for reasons
1.4 (b) and (d).

11. (S) SUMMARY: Prime Minister Maliki strongly urged Coalition Forces (CF) and Iraqi Security Forces (ISF) to use restraint and proportional force when searching for rank-and-file militia members and insurgents. He deplored the death of innocent civilians killed during a recent CF operation and said it could result in a political backlash against both the CF and the Government. MNF-I Deputy Commanding General Rollo countered that in the incident referred to by the PM, the CF returned fire in self-defense.

12. (S) The remainder of the September 9 Ministerial Council on National Security (MCNS) covered:

-- Reports that Moqtada al-Sadr re-affirmed his cease fire pledge and that it included a prohibition of offensive operations against CF and ISF.

-- Beefed-up security plans for ISF securing Basrah Palace following redeployment of British forces.

-- Difficulty in obtaining convictions of confessed insurgents due to loopholes in Iraqi law.

-- Countering terrorist group funding. END SUMMARY.

Maliki Urges Proportional Force

13. (S) An agitated Prime Minister Nouri al-Maliki opened the September 9 MCNS with a long declarative statement strongly urging the CF and ISF to use restraint and proportional force during its counterinsurgency operations. He pointed out that a recent CF operation against rank-and-file militia -- which failed to capture any suspects -- had resulted in the deaths of up to 24 innocent civilians and destruction of numerous houses. He blamed these collateral deaths on indiscriminate fire from CF helicopters and heavy weapons (Note: Maliki did not specify the exact operation, but his description matches news accounts of a September 7 combined CF/ISF raid against dissident Sadr militia members in the Al-Washash area of Baghdad. End note.). Maliki lamented that people in the street were asking why his government did not protect them from this violence. He contrasted this CF operation with the recent clearing of Karbala by Iraqi forces which he claimed had resulted in the capture of 325 suspects and targets without any civilian casualties or destruction of houses or

buildings.

¶4. (S) Chief of Iraqi Joint Forces General Babakir countered that the CF and ISF had 100 percent certainty about the whereabouts and affiliation of the suspect in the disputed operation. When the CF attempted to detain him, they encountered heavy fire from the surrounding buildings and they returned fire in self-defense. He allowed that the CF air-to-ground rockets and heavy weapons -- which destroyed these buildings in the ensuing firefight -- might have been disproportionate force to the encountered threat.

¶5. (S) Deputy MNF-I Commanding General Rollo emphasized that Coalition Forces deplored the loss of innocent life. He also expressed understanding of the resulting political problems. Nonetheless, it was important to note that this was a joint CF-ISF operation in which "we did not open fire first, but had responded in self-defense." He said MNF-I was investigating the operation to establish the facts and would be happy to brief the results to the GOI.

¶6. (S) NSA Muwafaq Rubaie concluded that Coalition Forces had agreed with the Government to five coordinating points concerning raids in civilian population centers, but that these had fallen into disuse since the start of Operation Fard al Qanoon. General Rollo replied that this was prior to his arrival, but that if the NSA would like to table the points he would of course consider them.

Inclusion of CF in the Sadr Cease-fire Pledge

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¶7. (S) NSA Rubaie said he had reliable reports that Moqtada al-Sadr had re-affirmed his cease-fire pledge, but more importantly, Sadr clarified it to specifically include a prohibition against operations targeting the CF and ISF.

¶8. (S) General Rollo expressed some skepticism based on reports from the field. Since the cease-fire pledge in late August, he said, explosively-formed projectile (EFP) attacks against the CF had actually increased and IED attacks had remained about the same.

¶9. (S) PM Maliki cautioned that it was now very important to differentiate between those forces who were following Sadr,s pledge and those who are not. The former should be strongly encouraged towards a political solution, but the later should be dealt with severely. PM Maliki said he was convinced Sadr,s pledge was genuine and it was time to give peace a chance. But he acknowledged it had to be done with "one finger on the trigger" as a precaution against rogue Sadr elements.

Securing Basrah Palace

¶10. (S) The Minister of State for National Security said the recent redeployment of British forces from the Basrah Presidential Palace opened up an opportunity to return the area to its former recreational use. He said it would send an important signal to the citizens of Basrah that life was returning to normal.

¶11. (S) General Babakir added that his troops were not using the palace as living quarters, but simply protecting it from militia forces which might try to occupy it as a symbol of strength against the CF and ISF. He did not object to handing the palace over to the local government at some point for its potential use as a park, recreation area, or meeting center.

¶12. (S) PM Maliki countered that the timing wasn,t right.

He said he did not want any change in the palace status until the ISF completed all its troop rotations/deployments into Basrah and had demonstrated control of the security situation for at least two or three months.

Loopholes in Convicting Confessed Insurgents

¶13. (S) Without mentioning any specific case, PM Maliki complained that many suspected insurgents were recanting their confessions in court and walking free because of loopholes in Iraqi law. Unlike CF detainees, he added, the Iraqi government could not legally hold suspects purely on the basis of intelligence sources. At some point, he said, the source had to make the accusation in court in front of a judge. NSA Rubaie added that sources were still reluctant to come forward, fearing their safety even if their testimony was done in camera without defendant presence. He urged adoption of stricter laws to protect these sources.

¶14. (S) General Babakir asked if it would be possible to try these defendants in military courts under the State of Emergency where there were fewer alternatives to challenge source testimony. Although PM Maliki said it would probably be unconstitutional to try civilians in a martial court, NSA Rubaie offered to get a definitive legal opinion.

¶15. (S) Changing the subject slightly, PM Maliki said he had read the report on detainee abuse delivered by the MCNS subcommittee chaired by DPM Salih (reftel). He reported the subcommittee gave him a list of over 2,000 improperly detained persons but over 1,000 have now been released. He strongly urged the Ministry of Justice to conduct the remaining investigations quickly and vigorously.

Countering Terrorist Group Funding

¶16. (S) NSA Rubaie opened the final discussion point with a short description of the U.S. Treasury Department's efforts at isolating and halting terrorist financial sources. He urged that the Iraqi Central Bank become fully engaged in

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this international financial process. General Rollo suggested widening the focus to include militias and neighboring country support for terrorist groups. PM Maliki agreed and added that the GoI must continue to open new avenues of international cooperation for combating terrorism, particularly in information sharing. In particular, he said the GoI had information about possible Al Qaeda operations in Algeria which must be shared with the GoA as a moral imperative whether or not Iraq got anything in return.

BUTENIS